

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DERRICK SATCHELL, et al.,

No. C 03-2659 SI; C 03-2878 SI

Plaintiffs,

v.

**ORDER GRANTING FINAL APPROVAL
TO CLASS ACTION SETTLEMENT AND
CONSENT DECREE; CONFIRMING
FINAL CERTIFICATION OF CLASSES**

FEDEX EXPRESS,

Defendant.

On August 9, 2007, the Court held a final fairness hearing to determine whether the Consent Decree should be given final approval. On April 13, 2007, the Court granted preliminary approval to the Consent Decree, and directed that notice of the settlement terms be provided to the class. After consideration of the Consent Decree, the papers submitted in support of final approval, the response of the class to the settlement, and the proceedings in this action to date, the Court hereby GRANTS the motion for final approval (Docket No. 751) and orders as follows:

1. Except as otherwise specified in this order, the Court adopts all defined terms set forth in the Consent Decree, attached as Exhibit 1 to the April 13, 2007 order granting preliminary approval;

2. The Court confirms as final its conditional certification of the injunctive relief-classes and the monetary-relief Settlement Class, as defined in the Consent Decree and in Section III of the April 13, 2007 order, for purposes of settlement and based on the findings in Section III of the April 13, 2007 order and the absence of any objections from any class members to such certification.

3. The Court confirms as final the appointment of Derrick Satchell, Kalini Boykin, Valerie Brown, Rick Gonzales, Cynthia Guerrero, Rachel Hutchins, Tyrone Merritt, Kelvin Smith Sr., and Ken

1 Stevenson as class representatives as stated in Section IV of the April 13, 2007 order.

2 4. The Court confirms as final the appointment of the following as Class Counsel: Altshuler
3 Berzon LLP; Lieff, Cabraser, Heimann & Bernstein, LLP; Schneider & Wallace; Law Office of John
4 Burris; Law Offices of Michael S. Davis; Law Offices of Kay McKenzie Parker; Law Offices of
5 Waukeen Q. McCoy; and Barry Goldstein, of counsel to Goldstein, Demchak, Baller, Borden and
6 Dardarian.

7 5. The Class Notice and Claim Form given to class members, pursuant to the Court's orders,
8 constituted the best notice practicable under the circumstances, was accomplished in all material
9 respects, and met the requirements of Rule 23 of the Federal Rules of Civil Procedure, the United States
10 Constitution, and any other applicable law.

11 6. Pursuant to Federal Rule of Civil Procedure 23(e), the Court grants final approval to the
12 Consent Decree and the settlement set forth therein. The Court finds that the Consent Decree and
13 settlement are fair, reasonable and adequate in all respects. The Court specifically finds that the
14 settlement is rationally related to the strength of plaintiffs' and class members' claims given the risk,
15 expense, complexity and duration of further litigation. This Court also finds that the parties engaged
16 in thorough factual and legal investigation, and that the Consent Decree is the result of arms-length
17 negotiations between experienced counsel representing the interests of the parties. *See Staton v. Boeing*,
18 327 F.3d 938, 960 (9th Cir. 2003); *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1291 (9th Cir.
19 1992).

20 7. The Court further finds that the response of the class to the settlement supports final
21 approval. The deadline for postmarking claim forms was August 1, 2007, and of the 23,970 class
22 members who received mailed notice, 10,582 submitted claim forms as of July 27, 2007. Only four
23 class members submitted objections, and one of those, submitted by Maurice A. Smith, was untimely.
24 The Court has reviewed and considered the objections submitted by Brett Hoiland, LaKeysha Dorsey,
25 Rosalinda Olmos, and Maurice A. Smith, and finds that they do not raise concerns that warrant rejecting
26 the settlement. The Court hereby incorporates its discussion of the objections submitted by class
27 members Hoiland and Olmos, as set forth in the Order Granting Plaintiffs' Motion for Approval of
28 Service Payments. Ms. Dorsey's objection states that she believes that the "monetary relief being

1 provided is not commensurate with the loss,” and that she will “present new evidence through a lawyer
2 at the final fairness hearing.” Neither Ms. Dorsey nor anyone acting on her behalf appeared at the
3 August 9, 2007 hearing. Mr. Smith also appears to object to the monetary relief, and his papers state
4 that he “will settle for \$1,140,000.00.” The Court finds that these objections are not well-founded, and
5 that the monetary relief provided to the class is considerable. The Court also finds that the mechanisms
6 and procedures set forth in the Consent Decree by which payments are to be calculated and made to
7 class members who have filed timely claims are fair, reasonable, and adequate. The Court also notes
8 that Ms. Dorsey and Mr. Smith were free to exclude themselves from the monetary portion of the
9 settlement and pursue their claims independently; neither chose to exercise that option.

10 8. The Court approves the parties’ agreement to permit Herman Savage and Michelle
11 Swallow to rescind their requests for exclusion, even though their rescission requests were submitted
12 after the deadline for rescissions set forth in the Court’s April 13, 2007 order.

13 9. The Court approves the parties’ agreement to treat the requests for exclusion submitted
14 by Nicholas Benavente, Eloisa Blandon, Hector Garcia, and Richard Zapata as effective, even though
15 the requests did not use the precise language required by the Court’s April 13, 2007 order.

16 10. By operation of the entry of this Order and the Final Judgment, all released claims are
17 fully, finally and forever released, relinquished and discharged, pursuant to the terms of the Consent
18 Decree, as to all monetary-relief Settlement Class members other than those listed in Exhibit A to the
19 Final Judgment. The Court has reviewed the release provision in the Consent Decree, and the Court
20 finds the releases to be fair, reasonable, and enforceable under applicable law. All claims released
21 pursuant to the Consent Decree are dismissed with prejudice as to all class members other than those
22 listed in Exhibit A to the Final Judgment.

23 11. The Court retains jurisdiction over this matter for purposes of resolving issues relating
24 to administration, implementation and enforcement of the Consent Decree.

25 **IT IS SO ORDERED.**

26
27 Dated: August 14, 2007

28


SUSAN ILLSTON
United States District Judge